

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

BRITTANY L. LIBBEN,

Plaintiff,

v.

WALMART, INC. and WAL-MART
ASSOCIATES, INC.,

Defendants.

CASE NO. 8:25-cv-436

NOTICE OF REMOVAL

Defendants, Walmart, Inc. and Wal-Mart Associates, Inc. ("Defendants"), notify the Court that they hereby remove the above-referenced action from the District Court of Platte County, Nebraska, Case No. CI 25-140, pursuant to 28 U.S.C. §§ 1331, 1332 and 1441. In support of this Notice of Removal, Defendants state as follows:

1. This action is being removed to federal court based upon federal question jurisdiction, 28 U.S.C. § 1331, and diversity of citizenship jurisdiction, 28 U.S.C. § 1332.
2. On June 9, 2025, Plaintiff Brittany L. Libben ("Plaintiff"), served Defendants with a Complaint for the above entitled action, which was filed in the District Court in Platte County, Nebraska, Case No. CI 25-140. Defendants file this Notice of Removal within 30 days of receipt of the Complaint and, therefore, Defendants have timely removed this case.
3. This Court has federal jurisdiction over the action because Plaintiff's Complaint brings claims of disability discrimination and retaliation under the Americans with Disabilities Act (42 U.S.C. §§12101 et seq. and 42 U.S.C. §12203), alleged violations of the federal Family and Medical Leave Act (29 U.S.C. 2601 et seq.), and alleged violations of the Fair Labor Standards Act (29 U.S.C. §§201 et seq.). (*See* Ex. A, Complaint, at Counts II, III, VI, and VII). The Court has supplemental jurisdiction over the remaining state law claims alleging disability

discrimination, retaliation, and wrongful termination in violation of Nebraska public policy as these claims stem from the same nucleus of operative facts as the federal claims and are so related to federal claims in the action that they form part of the same case or controversy under Article III. (*See Ex. A, Complaint at Counts I, IV, and V.*)

4. This Court has diversity of citizenship jurisdiction over the action because this is a controversy between citizens of different states. Plaintiff's Complaint alleges she is "a resident of Columbus, Platte County, Nebraska" and therefore is a citizen of the State of Nebraska. (Ex. A, Complaint, ¶1). Although Plaintiff's Complaint alleges Walmart, Inc. is a Nebraska corporation with its principal office located in Columbus, Platte County, Nebraska, Walmart, Inc. is actually a Delaware corporation with its principal place of business in Bentonville, Arkansas, and, therefore, is a resident of a state other than Nebraska. (Ex. A, Complaint, ¶2; Ex. 1, SEC Form 10-K Information, authenticated by Ex. C, Declaration of McGill at ¶3). Plaintiff's Complaint alleges Defendant Wal-Mart Associates, Inc. "is a Delaware corporation, with a principal office in Bentonville, Arkansas," and, therefore, is a resident of a state other than Nebraska. (Ex. A, Complaint, ¶3). Accordingly, complete diversity exists for removal pursuant to § 1332.

5. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff's Complaint alleges she earned "approximately \$68,623.75 annually." (Ex. A, Complaint, ¶28). Specifically, Plaintiff alleges she is owed alleged overtime compensation of 10 hours per week during her entire employment, which began in November 2021. (Ex. A, Complaint, ¶¶8, 76, 78). Plaintiff also seeks liquidated damages in an amount equal to alleged unpaid overtime wages, resulting in a total amount in controversy exceeding \$75,000. (Ex. A, Complaint, ¶¶81). Plaintiff's Complaint alleges she suffered "lost wages, compensatory damages, including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and has also incurred attorney's fees and other costs that are continuing." (Ex. A, Complaint, ¶29). She demands relief,

including “a. Lost wages and benefits to the time of trial; b. Front pay; c. Compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses; d. Liquidated damages paid to the common school fund under Neb. Rev. Stat. §48-1232; e. Liquidated damages under 29 U.S.C. § 216(b) in an amount equal to Plaintiff’s unpaid overtime wages; f. Punitive damages under Federal law; g. Attorney’s fees, expert witness fees and other reasonable costs; and h. Pre-judgment and post judgment interest.” (Ex. A, Complaint, ¶81(a)-(h)).

6. Pursuant to 28 U.S.C. § 107, the United States District Court for the District of Nebraska is the federal judicial district encompassing the District Court of Platte County, Nebraska, where this suit was originally filed. Venue is therefore proper in this district under 28 U.S.C. § 1441(a).

7. This Notice of Removal is being timely filed by Defendants pursuant to 28 U.S.C. § 1446 and Fed. R. Civ. P. 6.

8. Defendants expressly reserve all defenses to Plaintiff’s claims, including, but not limited to, all defenses based in law, equity, statute, constitution, jurisdiction, or immunity, any other defense or avoidance, and does not waive any defense by this removal.

9. Attached as Exhibit A and incorporated by reference is a true and correct copy of the state court pleadings served upon Defendants and removed by this notice. Exhibit A is a true and correct copy of all filings known to Defendants in the District Court of Platte County, Nebraska. To Defendants’ knowledge, no other pleadings or papers have been served or filed with the District Court for Platte County, Nebraska.

10. Attached as Exhibit B is a true and correct copy of the Notice of Filing of Notice of Removal which is being served contemporaneously with this document on all parties to be filed with the District Court for Platte County, Nebraska.

11. Attached as Exhibit C is the Declaration of Defendants' counsel and Exhibit 1, which is the documentation from the United States Securities and Exchange Commission website regarding the citizenship of Defendant Walmart, Inc.

12. Defendants request trial of this matter in Lincoln, Nebraska.

WHEREFORE, Defendants notify this Court of the removal of this action from the District Court for Platte County, Nebraska to the United States District Court for the District of Nebraska.

Dated this 2nd day of July 2025.

WALMART, INC. and WAL-MART ASSOCIATES, INC., Defendants,

By: /s/ Sarah (Sally) L. McGill

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Jennifer Turco Meyer – jennifer@turcomeyer.law

And I hereby do certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

N/A

/s/ Sarah (Sally) L. McGill

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